

Sills Cummis & Gross

A Professional Corporation

The Legal Center
One Riverfront Plaza
Newark, New Jersey 07102-5400
Tel: 973-643-7000
Fax: 973-643-6500

Jeffrey J. Greenbaum
Member
Direct Dial: (973) 643-5430
E-mail: jgreenbaum@sillscummis.com

101 Park Avenue
New York, NY 10178
Tel: 212-643-7000
Fax: 212-643-6500

April 15, 2024

By ECF and Email

Honorable Freda L. Wolfson, U.S.D.J.
Lowenstein Sandler LLP
One Lowenstein Drive
Roseland, NJ 07068

**Re: *Johnson & Johnson Health Care Systems Inc. v. Save On
SP, LLC, Civil Action No. 22-2632 (JKS) (CLW)***

Dear Judge Wolfson:

On behalf of JJHCS, we write only briefly in response to the letter submitted by counsel for Express Scripts and Accredo (“Movants”) earlier this afternoon.

First, Movants are wrong to say that JJHCS “opened the door” to the Movants’ presentation of new arguments when JJHCS pointed out that the Movants’ opening brief made only “vague and unnamed ‘substantive arguments.’” The proper way for a moving party to proceed is to present all relevant factual contentions in its opening brief, and having failed to do so here does not entitle the Movants to a do-over in their reply brief. Indeed, if merely pointing out the insufficiency of the moving party’s factual presentation was a sufficient basis for the moving party to jam the record full

Honorable Freda L. Wolfson, U.S.D.J.

April 15, 2024

Page 2

of new factual claims in a reply submission, there would be no incentive for a moving party ever to present its factual claims in an opening brief.

Second, while we appreciate the Movants' belated recognition that their Reply Brief violated the font and page length rules of Local Civil Rule 7.2(d), refiling the identical brief in 14-point font is not the remedy, as this would allow the Movants to far exceed the 15-page limit for a 14-point font brief set forth in the Local Rules. The proper remedy would be for the Movants to submit a brief that complied with the Local Rules, and a compliant brief in the proper format would exceed the permissible page limits for a reply brief in this Court.

We appreciate Your Honor's attention to this matter.

Respectfully submitted,

/s/ Jeffrey J. Greenbaum

JEFFREY J. GREENBAUM

cc: All counsel of record